

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Baron Montero Jones,

Petitioner,

v.

Civil No. 11-2501 (JNE/AJB)
ORDER

State of Minnesota,

Respondent.

On August 31, 2011, Petitioner filed a document titled “Writ of Audita Querela Pursuant to Fed. R. Civ. P. 60(b).” The matter was referred to the Honorable Arthur J. Boylan, United States Chief Magistrate Judge, who issued a Report and Recommendation on September 28, 2011. The Report and Recommendation was mailed to Petitioner but returned undeliverable. It was mailed to a different address on October 3, 2011. Objections to the Report and Recommendation were due by October 12, 2011, but due to the error in mailing, the Court waited 15 days, from the second mailing, for a response. Receiving no objection to the Report and Recommendation, the Court issued an Order adopting the Report and Recommendation on October 18, 2011. The same day, Petitioner filed a “Motion for Reconsideration Pursuant to Fed. R. Civ. P. 60(b) and Motion to Correct Errors in Order Pursuant to Fed. R. Civ. P. 60(a).” The motion will be deemed to be an objection to the Report and Recommendation and to be timely filed. The Court vacates its order issued on October 18, 2011 to consider Petitioner’s objections.

The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). The Court agrees with and adopts the Report and Recommendation. The Report and Recommendation is extremely thorough and generous in its treatment of Petitioner’s claims. To the extent the Petitioner’s objection raises new arguments, they are rejected. In particular, Rule

60(a), now cited by Petitioner, provides a mechanism to correct clerical mistakes and mistakes arising from oversight or omission. Petitioner does not identify any such mistakes—either in the underlying record or the Report and Recommendation—and the Court perceives none.

Based on its review of the record, the Court adopts the Report and Recommendation [Docket No. 3]. Therefore, IT IS ORDERED THAT:

1. Petitioner's application for leave to proceed in forma pauperis [Docket No. 2] is **DENIED**.
2. Petitioner's action for a Writ of Audita Querela [Docket No. 1] is summarily **DISMISSED**.
3. Petitioner's Motion for Relief pursuant to Fed. R. Civ. P. 60(b) and Motion to Correct Errors pursuant to Fed. R. Civ. P. 60(a) [Docket No. 6] is **DENIED**.

Dated: November 3, 2011

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge